

OCT-23 2008

Public Disclosure Commission

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

October 22, 2008

Vicki Rippie Executive Director Public Disclosure Commission PO Box 40908 Olympia, WA 98504-0908

RE: BIAW Citizen Action Day Letter - Evergreen Progress

Dear Ms. Rippie:

The Attorney General's Office has received a citizen action letter filed by Timothy Harris, General Counsel for the BIAW. The letter alleges violations of the state campaign finance disclosure laws by the Evergreen Progress, a political committee. The letter was filed pursuant to RCW 42.17.400(4). As you know, RCW 42.17.400(4) requires action by the State within specific time periods or the citizen may proceed in the name of the State. This letter was received on Wednesday October 22, 2008 and a copy is attached.

As is customary with these types of matters, the Attorney General is respectfully requesting your agency conduct an investigation into the allegations. We will await the results of your investigation before proceeding further. In the event the Commission determines that it is appropriate to schedule an administrative hearing, please advise. Otherwise, I would request the Commission's recommendation, with the report of investigation, be forwarded to the Attorney General when it is complete.

I have been assigned the file in our office. I am available to answer any legal questions you may have during the course of the investigation.

If you have any questions, please do not hesitate to call me at (360) 753-0543.

Sincerely,

LÍNDA A. DALTON

Sr. Assistant Attorney General

LAD:nt Enclosures

cc: Rob McKenna, Attorney General

Jeff Goltz, Deputy Attorney General

Ed Holm, Thurston County Prosecuting Attorney

Timothy Harris, General Counsel, BIAW



Commission



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October 21, 2008

Rob McKenna Washington State Attorney General 1125 Washington St SE P.O. Box 40100 Olympia, WA 98504

Ed Holm Thurston County Prosecuting Attorney 20000 Lakeridge Drive SW Olympia, WA 98502 ATTORNEY GENERAL
OF WASHINGTON

OCT 2 2 2008

GOVERNMENT COMPLIANCE
& ENFORCEMENT

Re: 1st Notice of Intent to Sue Evergreen Progress for Violations of RCW 42.17.080(2)

Dear elected officials:

The Building Industry Association of Washington (BIAW) submits this statutory notice of intent to sue Evergreen Progress, a political action committee, for numerous violations of reporting requirements in RCW 42.17.080(2). BIAW intends to bring a citizens action against Evergreen Progress under 42.17.400(4) if you do not commence an action within the time frames provided by statute.

Evergreen Progress concealed approximately one million dollars from the public by failing to report contributions in a timely manner. Those contributions were not properly reported on Evergreen Progress' Oct. 14, 2008 C-4.

RCW 42.17.080(2) states the requirements for the C-4:

"The report filed twenty-one days before the election shall report all contributions **received** and expenditures made as of the end of the **one business day** before the date of the report." (Emphasis added)

On its 10/14/2008 C-4, Evergreen Progress did not report any contributions or deposits made after 10/08/08. But, Evergreen Progress's 10/19/08 C-3, lists receipts dated 10/09/2008, 10/10/2008 and 10/13/2008, putting Evergreen in violation of RCW 42.17.080(2).

According to RCW 42.17.080(2), the following contributions should have been reported on the C-4 filed prior to 12:01 a.m. on Tuesday, October 14:

 \$815,000 from the Democratic Governors Association, with a date received of 10/10/2008

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- \$25,000 from Drive Committee, with a date received of 10/09/2008
- \$8,000 from 46 Electrical Workers PAC with a date received of 10/09/2008
- \$8,000 from UFCW Union Local #367 with a date received of 10/09/2008
- \$10,000 from the UA Local 32 P.A. Seg. Fund with a date received of 10/09/2008
- \$50,000 from the United Food and Commercial Workers with a date received of 10/09/2008
- \$50,000 from Working for Working Americans, with a date received of 10/13/2008
- \$35,000 from Washington Education Association, with a date received of 10/13/2008

All of the above-referenced contributions were not reported, as required, in the 21-day C-4 report. A reasonable person can only conclude that Evergreen Progress wished to "hide the ball" for an additional week.

This is exactly the type of situation that the legislature sought to prevent when it amended RCW 42.17.080 earlier this year. See Chapter 73, Laws of 2008 (HB 2448). Under prior law, the C-4 only had to reflect contributions received more than <u>five</u> days before the filing deadline. That period was changed to <u>one</u> business day before the deadline.

According to the legislative history of House Bill 2448, "[t]he PDC supports the requirement that these reports filed 21 days before the primary and general elections be current within one business day because with vote-by-mail, a large number of voters cast their ballots well before election day. . . Such early voters would have the benefit of news stories and blog postings that the more up-to-date information from candidates, political action committees, parties and caucus committees will generate. If this change had been in effect in 2006, the 21-day pre-primary reports would have included an additional \$2.3 million in expenditures, a 35% increase, and the pre-general elections would have disclosed an additional \$5 million in expenditures, a 40 percent increase over what was reported." House Bill Report, HB 2448.

If Evergreen Progress had followed the law in filing their 21-day report, the voting public would have the benefit of being aware of over \$1 million more in last-minute contributions.

This is a clear violation of the law that merits swift action.

Sincerely,

Timothy Harris General Counsel

Building Industry Association of Washington